IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2267 OF 2005

Dr. Chain Roop Bhansali & Anr ...Petitioners

Versus

Mrs. Indira Ashok Gajaria & Ors. ...Respondents

ALONGWITH

CRIMINAL WRIT PETITION NO. 2268 OF 2005

Dr. Chain Roop Bhansali & Anr ...Petitioners

Versus

M/s. Ankur Investments & Ors. ...Respondents

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Mr. Alok Bagla i/b M/s. Bagla Dandekar & Co. Advocate for Petitioners

Mr. Sanjay Udeshi i/b M/s. Sanjay Udeshi & Co. for Respondent No.1.

Ms. S.V. Gajare, A.P.P. in W.P. No.2267/05
Mr. R.S. Khadapkar, A.P.P. in W.P. No. 2268/05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 7TH OCTOBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioners, learned advocate for respondent i.e. original complainant and the learned A.P.P. for the State.

2. The petitioners have prayed for quashing of

process issued against them in Criminal Case Nos. 957/S/97 and 959/S/97 which are pending in the Court of learned Metropolitan Magistrate, 23rd Court, Esplanade, Mumbai. In the said case, process has been issued against the petitioners under Section 138 and 141 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K. Jain & Ors. Vs. Pratap Vs. Padode and Anr, reported in 2005(3) Mh.L.J. 778,** in my opinion, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period of five weeks from today. I am informed that the date before the trial Court is on 13.10.2005. In view of this statement, the trial Court shall not proceed with the trial on 13.10.2005 and for a period of four weeks thereafter. The learned advocate for the respondent No. 1 i.e. original complainant fairly states that no objection would be raised in

respect of delay in filing revision before the learned Sessions Judge. All contentions of both sides are left open.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties. The learned advocate for the petitioners states that he will give four days advance notice to the learned advocate for the respondent i.e. original complainant in respect of filing of revision.

6. Writ Petitions are disposed of.

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